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Memorandum

Date: September 15, 2009

To: Chip Skinner
Deputy Executive Officer
Victim Compensation Program

From: Amy Cheung, Chief
Office of Audits and Investigations

Subject: Final Report – Follow-Up Review of Eligibility Determinations

In 2008, the Office of Audits and Investigations (OAI) conducted a review of eligibility determinations recommended by the Victim Compensation Program (VCP) headquarters staff for the period of October 1, 2007, through January 31, 2008. In our report dated November 26, 2008, we found some inaccurate eligibility determinations. Specifically, we found:

- Three instances where there was no evidence of physical injury and/or emotional injury with a threat of physical injury
- Three instances of duplicate applications where staff previously allowed for the same crime
- Two instances of possible involvement issues not overcome
- One instance of a non-qualifying derivative victim filing for benefits

To address these findings reported, we made several recommendations, including that the VCP emphasize the importance of reviewing current policies and procedures to staff to ensure that their eligibility determinations are properly supported. Management concurred and outlined a plan for taking corrective action that included providing more training to staff.

We confirmed that a series of trainings were provided to all eligibility staff. Eligibility staff attended documentation training in February and policy training in March that focused on accurate eligibility determinations and data entry.

Follow-Up Review

This report presents the results of our follow-up review of eligibility determinations recommended by VCP headquarters staff for the period of January 1, 2009, through March 31.

2009. Our review included a sample of 184 applications from a total of 2,232, representing approximately 8% of the total population.

Our follow-up review did not include an assessment of the efficiency and effectiveness of the VCP's operations. Rather, we only identified applications that had eligibility issues.

Background

The Victim Compensation and Government Claims Board (VCGCB) administers several programs, one of which is the VCP. The VCP provides compensation for victims of violent crime who are injured or threatened with injury. Crimes covered include domestic violence, child abuse, sexual and physical assault, homicide, robbery, drunk driving and vehicular manslaughter. The VCP will compensate many types of services when the costs are not covered by other sources if a person meets eligibility criteria. Covered expenses include medical and dental care, mental health services, income loss, funeral expenses, rehabilitation and relocation. Prior to compensation, VCP staff must review an application in detail to determine eligibility.

Objective, Scope, and Methodology

The objective of this follow-up review was to determine whether the VCP took corrective action to the findings in the original report. To conduct this follow-up review, we held discussions with management and performed another test using more recent data.

To determine whether eligibility determinations were recommended in compliance with applicable statutes, regulations, policies and procedures, we reviewed applications to verify that:

- the application was completed;
- the application intake data was entered into CaRES accurately;
- the eligibility determination was justified based on several eligibility criteria; and
- the quality assurance review process was accurate.

Information technology staff generated a report that contained 2,232 applications processed by the VCP headquarters staff for the period of January 1, 2009, through March 31, 2009.

To ensure an effective and efficient testing of applications, we selected a statistical sample based on a 95% confidence level with a precision rate of 3% and an expected error rate of not over 5%. A total of 184 applications from a population of 2,232 were selected for review. We used a statistical sample so the sample results could be projected to the population.

Review Results and Recommendations

Eligibility Determinations

To determine whether the VCP has made progress in reducing its rate of inaccurate eligibility determinations, we compared the error rate identified in our last report to the error rate found in this follow-up review.

We determined that the rate of inaccurate eligibility determinations significantly decreased as shown below.

Table 1 – Comparison of Error Rates from the Prior and Current Review

Description	Inaccurate Eligibility Determinations		Inaccurate Eligibility Determinations (%)	
	Prior Review	Follow-up Review	Prior Review	Follow-up Review
No evidence of physical injury and/or emotional injury with a threat of physical injury	3	0	2%	0
Duplicate applications where staff previously allowed for the same crime	3	0	2%	0
Possible involvement issues not overcome	2	0	1%	0
Claimant as a non-qualifying derivative victim	1	0	<1%	0
Lack of evidence of a qualifying crime	0	1	0	<1%

Source: OAI worksheets

Based on the results identified above, we projected the total error rate to the population.

Table 2 – Calculation of the Projected Number of Applications with Questionable Eligibility Determinations

		Prior Review		Follow-up Review
Total number of applications with inaccurate eligibility determinations		9		1
Total applications sampled	÷	<u>190</u>	÷	<u>184</u>
Error rate (%)		5%		1%
Total applications in population	x	<u>2,811</u>	x	<u>2,232</u>
Projected number of applications inaccurate eligibility determinations		<u>141</u>		<u>22</u>

Source: OAI worksheets

Government Code (GC) section 13954(a) states that the board shall verify with hospitals, physicians, law enforcement officials, or other interested parties involved, the treatment of the victim or derivative victim, circumstances of the crime, amounts paid or received by or for the victim or derivative victim, and any other pertinent information deemed necessary by the board. Verification information shall be returned to the board within 10 business days after a request for verification has been made by the board. Verification information shall be provided at no cost to the applicant, the board, or victim centers. When requesting verification information, the board shall certify that a signed authorization by the applicant is retained in the applicant's file and that this certification constitutes actual authorization for the release of information, notwithstanding any other provision of law. If requested by a physician or mental health provider, the board shall provide a copy of the signed authorization for the release of information.

California Code of Regulations (CCR) section 649.38(a)(b)(c)(1)(2)(d) states that a conviction shall be sufficient proof that a crime occurred. Significant weight may be given to the evidence from and conclusions of a law enforcement agency after investigation of the qualifying crime when determining whether or not a qualifying crime occurred. Factors that may be considered as evidence of a qualifying crime include, but are not limited to: an admission of guilt to law

enforcement; and the filing of a criminal charge for the qualifying crime. Medical or mental health records alone may not be sufficient evidence that a qualifying crime occurred.

Recommendation

We recommend the VCP continue to improve its eligibility determinations accuracy by evaluating causes of improper eligibility determinations and use the results to develop and implement an action plan to prevent them from occurring. We also recommend the VCP continue to emphasize the importance of reviewing current policies and procedures to staff to ensure that their eligibility determinations are properly justified.

Management's Response

The finding questions the eligibility decision to allow this application.

Synopsis – The victim was at her residence and had been drinking with her family. The suspect, who is an acquaintance of the family, was also present. The victim was intoxicated and went to her bedroom to sleep where she may have passed out. The victim awoke to find the suspect sexually assaulting her. The victim's husband pushed in the locked door to the bedroom and found the suspect and the victim. The suspect ran from the residence. Law enforcement officials were called. The victim was visibly shaken and cried while undergoing law enforcement questioning about the incident. The victim submitted to an evidence exam. When interviewed, the victim's daughter said the victim may have wanted to retaliate against her husband for her husband cheating on her. There is no proof for this allegation and the victim adamantly denied that she would cheat on her husband. It should be noted that the suspect has a criminal history of sexual assault and is a registered sex offender. He was not truthful when initially questioned by law enforcement. He later stated that the alleged sexual assault of the victim was a consensual act.

Basis for the decision - The victim was in an intoxicated/passed out state at the time of the incident and not able to give consent to the suspect. The victim cooperated with law enforcement officials and was noted to be distraught over the incident. The victim is noted to have been consistent with her story during the interview processes. The suspect is noted to have lied during his questioning and is a registered sex offender. Based on these facts, there is a preponderance of evidence that a sexual assault occurred as described by the victim.

Auditor's Comments

The finding and the recommendation remain unchanged. We questioned the eligibility decision to allow the application described above based on the following facts:

- Court Minutes noted that the Court found all witnesses unbelievable and dismissed the case due to the lack of evidence.
- Although the victim appeared to have cooperated with law enforcement officials, the victim made some inconsistent statements during the interview process. The deputy who took the victim's statements also indicated in the Incident Report that the victim told him multiple stories.
- The Incident Report included references alleging the victim wanted to make her husband jealous because he had cheated on her.
- The Sexual Assault Evidence Exam revealed no physical findings and exam inconsistent with history.

Data Entry in CaRES

Our last review found 12 applications that had one or more instances of inaccurate data entered into the Compensation and Restitution System (CaRES). These instances of inaccurate data entry occurred because staff did not properly type information into CaRES. Specifically, we found:

- Seven instances where the application did not have the claimant's correct social security number, date of birth, and/or address
- Five instances where the claimant's filing status was incorrect
- Two instances where the crime report number was incorrect

To determine whether the VCP has made progress in reducing its rate of data entry error, we compared the error rate identified in our last report to the error rate found in this follow-up review.

Of the 184 applications, we found four instances where the application did not have the claimant's correct address and date of birth; four instances where the crime report number was incorrect; and two instances where the claimant's filing status was incorrect.

As shown below, we determined that the data entry error rate has improved.

Table 3 – Calculation of the Projected Number of Applications with Inaccurate Data

		Prior Review		Follow-up Review
Total number of applications with inaccurate data		12		10
Total applications sampled	÷	<u>190</u>	÷	<u>184</u>
Error rate (%)		6%		5%
Total applications in population	x	<u>2,811</u>	x	<u>2,232</u>
Projected number of applications with inaccurate data		<u>169</u>		<u>111</u>

Source: OAI worksheets

Although these errors had minimal impact on the applications we reviewed, the risk for overpayments tend to increase when inaccurate information is entered into CaRES.

GC section 13403(a)(3) requires agencies to maintain a system of authorization and recordkeeping procedures adequate to provide effective accounting control over expenditures.

Recommendation

To ensure that CaRES maintains and processes accurate and complete information, we recommend the VCP continue to train or remind application intake staff to correctly input data into the system and eligibility and bill determination staff to correct or update data as necessary in CaRES. We also recommend VCP remind application intake staff to request and follow up on all appropriate verification documentation.

Management's Response

Management concurs with the finding.

Please note that this report is solely for management information and use. It is not intended to be and should not be used by anyone other than management. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

If you have any questions regarding this review, please contact me at (916) 491-3875.

Original Signed By

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Office of Audits and Investigations

AC:mc:2009-AUD-06

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